IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

WP(C).No. 9038 of 2006(A)

PETITIONERS:
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1. **VINOD K., S/O. ACHUTHEN NAIR,**
   AGED 33, MOONNAKKIL HOUSE, KARUVAMBALAM P.O.,
   KOLATHOOR (VIA), MALAPPURAM DISTRICT.

2. **PRATHIBHAKUMARI K.K.,**
   W/O. P.K. RAJAN, AGED 33, PARAKKAL HOUSE,
   KAMASHI, P.O. IDUKKI.

3. **GEETHA A.U.,**
   KALATHINGAL HOUSE, PARUTHIPALLY, PALAKKAD DIST.

BY ADV. SRI.C.S.MANILAL.

RESPONDENTS:
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1. **THE DEPUTY DIRECTOR OF EDUCATION,**
   IDUKKI AT THODUPUZHA.

2. **THE ASSISTANT EDUCATIONAL OFFICER,**
   KATTAPPANA, IDUKKI.

3. **THE ASSISTANT EDUCATIONAL OFFICER,**
   PEERMADE, IDUKKI.

4. **THE ASSISTANT EDUCATIONAL OFFICER,**
   ARAKULAM, IDUKKI DISTRICT.

W.P.(C). NO.9038/2006:

5. THE DISTRICT OFFICER,
KERALA PUBLIC SERVICE COMMISSION,
IDUKKI AT KATTAPPANA.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC,
GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.9038/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE RANKED LIST FOR THE POST OF FULL-TIME JUNIOR LANGUAGE TEACHER (HINDI) ON RS.4000-6090 IN THE EDUCATION DEPARTMENT.

EXT.P.2: COPY OF THE GOVERNMENT ORDER WITH ANNEXURE G.O. (MS) NO. 139/96/G. EDN. DTD. 30/03/96.

EXT.P.3: COPY OF THE GOVERNMENT ORDER G.O. (MS) 290/2001/G. EDN. DTD. 25/09/2001.

EXT.P.4: COPY OF THE ORDER DTD. 26/10/2004 IN W.P.(C). NO. 12109/2004.

EXT.P.5: COPY OF THE PROMOTION ORDER NO. A3/11239/02 DTD. 16/12/2002 ISSUED BY R.1.

//TRUE COPY//

prv.

K.M.JOSEPH, J.

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WP.(C) No.9038 OF 2006

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Dated this the 20th day of February, 2007

JUDGMENT

Petitioners' complaint is regarding inordinate delay in reporting vacancies of Full Time Language Teacher (Hindi) and consequent non-appointment of the petitioners, who are included in Ext.P1 rank list published by the Public Service Commission. Ext.P1 rank list was published on 6.6.2003. There is an interim order by which it is submitted by the learned Government Pleader that there are two vacancies. Those two vacancies were already reported. The case of the petitioners was that there are five vacancies. This court directed the vacancies to be reported. This court further directed that advice need not be made.

2. First respondent filed a counter affidavit. Paragraphs 2, 3 and 4 are relevant, which are extracted hereunder.

> "It is respectfully submitted that as per G.O.(MS) No. 139/96 G.Edn. Dated 20.3.1996 full time post of Junior Language Teacher may be filled up by promotion from among Junior Language Teachers Part time, according to

seniority. If there are no part time language teacher awaiting for promotion as full time Junior language teacher, the vacancies can be reported to Public Service Commission for direct recruitment. But by oversight two vacancies of full time Junior Hindi teachers were reported to Public Service Commission, for direct recruitment, while there were part time Junior Language Teachers awaiting for promotion. As a result a notification was also published by Public Service Commission on 6.6.2003, showing two vacancies of full time Junior Language Teacher.

It is submitted that rotation list is only available with Public Service Commission District Office, Idukki. The reported two vacancies were already been filled up as per sanction orders received from the Director of Public Instruction through Public Service Commission. None of the vacancies are available to be reported to Public Service Commission as per existing norms.

It is submitted that out of this eight vacancies two vacancies were filled up with the sanction of the Director of Public Instruction through Public Service Commission. No other vacancies have to be reported to Public Service Commission as the other vacancies have to be filled up by promotion from among part time junior language teacher Hindi according to seniority as per G.O.(MS)

> No.139/96.G.Edn., dated 30.3.96. The existing 6 vacancies were set apart for filling up by promotion. As per two vacancies were reported to Public Service Commission by wrong assessment, the above mentioned vacancies were filling up with the sanction of the Director of Public Instruction."

Thus it is clear that in fact there are no vacancies to be reported. The two vacancies which were reported were filled up on the basis of the sanction order received from the DPI through the PSC. As far as the further vacancies are concerned, it is clear that in view of the fact that part time language teachers were awaiting promotion as full time language teachers, the petitioners cannot have a complaint regarding the non-reporting of vacancies. Therefore there is no merit in the writ petition and the writ petition is dismissed.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.